

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

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subject: POSTS-127174-08

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

When an agent receives a cash payment in excess of \$10,000 on behalf of the principal, in the scenarios presented below, who is responsible for filing Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, as required by I.R.C. § 6050I?

CONCLUSION

The agent is required to file Form 8300, regardless of the method used to transmit the funds to the principal.

FACTS

The issue stated above is addressed as it is presented in the following three scenarios.

Scenario 1: X is a cemetery providing burial sites and burial services to individuals. As part of X's business, X acts as an agent for a burial insurance company, Y, selling burial insurance policies to its customers. Z, a customer of X, purchases a burial insurance policy by making a cash payment of more than \$10,000 to X. X deposits the funds into its own business account and then writes a check to Y for the same amount.

Scenario 2: The same facts as scenario 1 except that instead of X depositing the cash payment into its own account, X deposits the money directly into Y's account.

Scenario 3: The same facts as scenario 1 except that instead of X depositing the cash payment into its own account, X delivers the money directly to Y.

### LAW AND ANALYSIS

"Agency is the fiduciary relationship that arises when one person (a "principal") manifests assent to another person (an "agent") that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act." Restatement (Third) of Agency § 1.01 (2006). A party manifests this required intent to enter into an agency agreement through their actions. *Id.* at § 1.03. Y has manifested intent for X to act on behalf of Y and sell its policy to its customers by entering into an agreement authorizing X to sell its policies. By accepting this arrangement, X has manifested its consent to the agency relationship. Furthermore, "[a]n agent has a duty not to deal with the principal as or on behalf of an adverse party in a transaction connected with the agency relationship." *Id.* at § 8.03. Because a purchaser and a seller are naturally adverse parties dealing at arms length, the agent cannot represent both the buyer and the seller. X can only be an agent for Y.

Section 6050I places an obligation on persons engaged in a trade or business to report certain cash transactions to the Internal Revenue Service. I.R.C. § 6050I(a). Specifically, any transaction ( or two or more related transactions) in which the person receives more than \$10,000 in cash must be reported. *Id.* This report must be made on Form 8300 and include the customer's name, TIN, and address, and other information as required on the form. I.R.C. § 6050I(b); Treas. Reg. § 1.6050I-1(e)(2).

This obligation also applies to agents receiving cash on behalf of the principal. The regulations state that "[c]ash in excess of \$10,000 received by a person for the account of another must be reported under this section." Treas. Reg. § 1.6050I-1(a)(2). Thus, in Scenario 1 the receipt of the cash by the agent cemetery X is a transaction that must be reported on Form 8300 as X has received cash in excess of \$10,000 for the account of Y. The customer Z's information would be recorded in Part I of Form 8300. This information includes the customers name, address, date of birth, TIN, and occupation. Part II of Form 8300 refers to the principal's or Y's information as Y is the "person on

whose behalf the transaction was conducted.”<sup>1</sup> Part IV of Form 8300 should include the agent cemetery X’s information as X was the business that received the cash.

In Scenario 2, like the first scenario, X has received cash in excess of \$10,000. However, instead of depositing the cash into X’s own account, X deposits the cash directly into the account of the principal Y. The action of receiving the payment is still done by X and is on behalf of the principal Y. Thus, just as in the first scenario, this is a receipt of cash which must be reported by X on Form 8300. Treas. Reg. § 1.6050I-1(a)(2), (e)(2). This is the correct result “even though the proceeds of the collection are credited to the account of the [principal]” as X is the business that actually receives the cash from Z. Treas. Reg. § 1.6050I-1(a)(2). Thus, the reporting requirements are the same whether X deposits the money first in its own account or in the account of Y. Form 8300 should be completed in the same manner in Scenario 2 as it was in Scenario 1.

In Scenario 3, X receives the cash from the customer, but instead of depositing the funds, X delivers the cash directly to Y. Just as in the first two scenarios, X has received cash in excess of \$10,000 on behalf of Y. Because this was in the course of X’s trade or business, X must file Form 8300 reporting the transaction. The form would be completed as previously described. What is less clear is Y’s obligation arising from the receipt of cash from its agent X. Must a second Form 8300 be filed by the principle Y?

The information required to be provided on Form 8300 is used to highlight the path cash has made in a given transaction. The form details who has handled the money, the purpose of the transaction, and on whose behalf the transaction was entered into. All this pertinent information would be found on the original Form 8300 filed by the agent X. The form would track the money from the customer to the agent and would also show that because the transaction was entered into on behalf of the principle that is where the cash would ultimately end up. Thus, a subsequent filing by Y would be merely duplicative and unnecessary.

The Supreme Court has stated that “[w]here a genuine agency relationship exists, the tax consequences of transactions involving property held by an agent may be attributed to the principal.” *New York Guangdong Finance, Inc. v. C.I.R.*, 2008 WL 648507, 9 (U.S. Tax Ct. 2008) (citing *Commissioner v. Bollinger*, 485 U.S. 340 (1988)). While this is not a tax consequence but an obligation arising out of the receipt of property, an agent’s actions (including filing Form 8300) should be attributed to the principal. Therefore, Y should not have an obligation to file Form 8300 when receiving cash in excess of \$10,000 from its agent when the agent has already filed the form on behalf of both parties.

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<sup>1</sup> Form 8300

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

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